

Honorable Jamal N. Whitehead

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VALVE CORPORATION,)
)
Plaintiff,) **DEFENDANTS' ANSWER TO**
) **PLAINTIFF'S SECOND AMENDED**
v.) **COMPLAINT**
)
LEIGH ROTHSCHILD, ROTHSCHILD)
BROADCAST DISTRIBUTION) Case No.: 2:23-cv-01016
SYSTEMS, LLC, DISPLAY)
TECHNOLOGIES, LLC, PATENT ASSET)
MANAGEMENT, LLC, MEYLER LEGAL) Complaint Filed: July 7, 2023
PLLC, AND SAMUEL MEYLER)
)
Defendants.)
_____)

1. Plaintiff Valve Corporation ("Valve"), through its undersigned counsel, hereby alleges as follows against Defendants Leigh Rothschild; Rothschild Broadcast Distribution Systems, LLC; Display Technologies LLC; Patent Asset Management, LLC; Meyler Legal, PLLC; and Samuel Meyler (collectively, "Defendants"):

ANSWER: This paragraph contains no allegations to which a response should be required, but, to the extent a response is required, Defendants admit that the following paragraphs contain allegations against one or more Defendants by Valve.

I. NATURE AND HISTORY OF THE ACTION

A. Defendants' tactics forced Valve to seek its requested relief to put an end to their bad-faith assertions of patent infringement.

ANSWER: Denied.

2. This is an action that seeks various forms of relief due to Defendants' bad faith

1 assertions of patent infringement against Valve.

2 **ANSWER:** Defendants admit that this is a civil action, but otherwise deny the
3 allegations of Paragraph 2.

4
5 3. First, Valve seeks a declaratory judgment that U.S. Patent No. 8,856,221 (“the
6 ’221 Patent”), which Defendants have asserted against Valve, is invalid.

7 **ANSWER:** Defendants admit that this is an action brought by Valve seeking, *inter*
8 *alia*, a declaratory judgment that the ’221 Patent is invalid, but otherwise deny the allegations
9 of Paragraph 2.

10
11 4. Second, Valve seeks a declaratory judgment that the ’221 Patent is
12 unenforceable against it as Valve is a licensee to the ’221 Patent under the 2016 Global
13 Settlement and License Agreement (Ex. 1) between Valve and Defendants Leigh Rothschild
14 and Display Technologies, LLC.

15 **ANSWER:** Defendants admit that this is an action brought by Valve seeking, *inter*
16 *alia*, a declaratory judgment that the ’221 Patent is unenforceable against Valve and that Valve
17 is a party to the 2016 Global Settlement and License Agreement between Valve and Defendants
18 Leigh Rothschild and Display Technologies, LLC. that was attached as Exhibit 1 to Plaintiff’s
19 Second Amended Complaint, but otherwise deny the allegations of Paragraph 4.

20
21 5. Third, Valve seeks a judgment that Defendants breached the 2016 Global
22 Settlement and License Agreement by: threatening to sue Valve for infringement of the
23 licensed ’221 Patent; demanding additional monetary payments from Valve to avoid that
24 lawsuit; suing Valve for infringement of licensed U.S. Patent No. 9,300,723; and by failing to
25 withdraw their threat over U.S. Patent No. 9,300,723.

26 **ANSWER:** Defendants admit that this is an action brought by Valve seeking, *inter*

1 *alia*, a judgment that Defendants breached the 2016 Global Settlement and License Agreement,
2 but otherwise deny the allegations of Paragraph 5.

3
4 6. Fourth, Valve seeks a judgment that Defendants violated Revised Code of
5 Washington (“RCW”) 19.350 (the Patent Troll Prevention Act) and RCW 19.86.020 (the
6 Washington State Consumer Protection Act) by making bad faith assertions of patent
7 infringement against Valve.

8 **ANSWER:** Defendants admit that this is an action brought by Valve seeking, *inter*
9 *alia*, a judgment that Defendants violated Revised Code of Washington (“RCW”) 19.350 (the
10 Patent Troll Prevention Act) and RCW 19.86.020 (the Washington State Consumer Protection
11 Act), but otherwise deny the allegations of Paragraph 6.

12 **B. Defendants are patent trolls engaged in a pattern of unseemly litigation**
13 **tactics, often based on objectively baseless allegations**

14 **ANSWER:** Denied.

15
16 7. Upon information and belief, Defendant Rothschild Broadcast Distribution
17 Systems (“RBDS”), the owner of the ’221 Patent, does not make, use, or sell any products or
18 services of its own, but is solely in the business of patent licensing through the threat of
19 litigation, a pattern of behavior indicative of entities commonly referred to as “patent trolls.”

20 **ANSWER:** Defendants admit that RBDS does not make, use, or sell any products or
21 service of its own, but otherwise deny the allegations of Paragraph 7.

22
23 8. Upon information and belief, RBDS’s sole business model and activity involves
24 making accusations of patent infringement to extract licensing payments from practicing
25 entities. RBDS has filed over 100 lawsuits in furtherance of that goal.

26 **ANSWER:** Denied.

9. Upon information and belief, Defendant Leigh Rothschild (“Rothschild”) owns or controls dozens of companies, including RBDS. The sole purpose of the Rothschild companies is to accuse others of patent infringement. The goal of these accusations is to extract a quick settlement from the accused infringers rather than actually litigate the merits of the infringement claims. Ex. 2 (Stupid Patent of the Month: “Internet drink mixer” vs. everyone, <https://arstechnica.com/tech-policy/2015/09/stupid-patent-of-the-month-internet-drink-mixer-vs-everyone/>).

ANSWER: Denied.

10. Entities owned by Rothschild have filed over a thousand patent infringement lawsuits. Ex. 3 (NPE Showcase – Leigh Rothschild, <https://www.gadgetsgigabytesandgoodwill.com/2023/05/npe-showcase-leigh-rothschild/>). In some instances, the defendants chose to fight rather than pay nuisance-value settlements. Courts have found such lawsuits brought by Rothschild entities to be objectively baseless, resulting in fees and other penalties against the Rothschild entities. Ex. 4 (Federal Circuit Hits Stupid Patent Owner With Fee Award, <https://www.eff.org/deeplinks/2017/06/federal-circuit-hits-stupid-patent-owner-fee-award>).

ANSWER: Denied.

C. Rothschild-controlled entities have engaged in a pattern of accusing Valve of infringement based on patents that they already licensed to Valve.

ANSWER: Denied.

11. On June 8, 2015, Display Technologies, an entity controlled by Rothschild, filed suit against Valve, accusing it of infringing U.S. Patent No. 8,671,195.

ANSWER: Admitted.

1 12. On November 14, 2016, Display Technologies and Valve entered into the 2016
2 Global Settlement and License Agreement. In that agreement, Display Technologies granted
3 Valve a “perpetual, irrevocable, royalty-free, fully paid-up, worldwide license” to all patents
4 listed in Exhibit C of the settlement agreement, as well as “all continuations, divisionals,
5 continuations-in-part, extensions, reissues, reexaminations, and any other patents or patent
6 applications claiming priority to or through the patents identified in Exhibit C.” Ex. 1 at 2.
7 Valve paid to obtain these rights. Ex. 1 at 5-6.

8 **ANSWER:** Admitted.
9

10 13. Rothschild signed the 2016 Global Settlement and License Agreement on behalf
11 of himself, Display Technologies, and all entities listed as “Assignee” in Exhibit C to the
12 agreement. Ex. 1 at 14 & 18-19.

13 **ANSWER:** Admitted.
14

15 14. In March 2022, Daniel Falcucci, the Director of Business Development at
16 Defendant Patent Asset Management (“PAM”), began sending numerous emails and messages
17 to members of Valve’s legal team, including LinkedIn messages, requesting that Valve execute
18 a new license with Rothschild and his various entities for more money. Mr. Falcucci stated that
19 PAM was headed by Rothschild, and that it was Mr. Falcucci’s understanding that PAM had
20 signed the 2016 Global Settlement and License Agreement with Valve. Ex. 5 (LinkedIn
21 message from Daniel Falcucci to Valve). Nonetheless, Mr. Falcucci repeatedly urged Valve to
22 negotiate a new licensing agreement with Rothschild. Id. As one example, Mr. Falcucci sent a
23 LinkedIn message to a member of Valve’s legal team offering an “opportunity” to enter into a
24 new agreement with PAM, and further offered to present what PAM called its “inventory
25 catalog” upon request. Id. The referenced “inventory catalog” is nothing but a list of patents
26 that Rothschild entities routinely assert against companies that are developing and

1 manufacturing actual useful products. PAM's inventory catalog it presented to Valve included
2 multiple patents that Valve already licensed in the 2016 Global Settlement and License
3 Agreement.

4 **ANSWER:** Defendants admit that Mr. Falcucci sent communications to individuals at
5 Valve in or around March 2022 to ask whether Valve would be interested in obtaining a license
6 to one or more patents owned by PAM or a subsidiary thereof that were not covered by the
7 2016 Global Settlement and License Agreement and that Mr. Falcucci included a list of every
8 patent then-owned by PAM or a subsidiary thereof with one of those communications, but
9 otherwise deny the allegations of Paragraph 14.

10
11 15. Listed in the inventory catalog as part of PAM's "featured inventory" that was
12 "not subject to an agreement" between Valve and Rothschild and that Rothschild now wanted
13 Valve to take a license to were United States Patent Nos. 8,617,160 and 9,402,664. Both
14 patents claim devices and methods for implanting nails into human bone during a medical
15 procedure to facilitate fracture healing.

16 **ANSWER:** Defendants admit that the list of patents sent by Mr. Falcucci to Valve
17 included U.S. Patent No. 8,617,160 ("the '160 patent") and U.S. Patent No. 9,492,664 and that
18 the '160 patent claims "[a] device for the implantation into osseous material to facilitate
19 healing," but otherwise deny the allegations of Paragraph 15.

20
21 16. Valve is not, and never has been, in the business of developing or selling any
22 products in the medical field, let alone specific, FDA-regulated surgical tools like the kind
23 PAM was offering to license to Valve.

24 **ANSWER:** Defendants lack knowledge sufficient to form a belief as to the truth or
25 falsity of the allegations in Paragraph 16 and therefore deny those allegations.

1 17. None of Mr. Falcucci’s messages ever provided any analysis of which Rothschild
2 patents Valve was supposedly practicing or which of Valve’s products were supposedly
3 practicing those patents—only that Valve should pay PAM and Rothschild more money.

4 **ANSWER:** Defendants admit that Mr. Falcucci did not provide an analysis of any
5 patent owned by PAM or a subsidiary thereof to Valve, but otherwise deny the allegations of
6 Paragraph 17.

7
8 18. Mr. Falcucci’s demands included that Valve take a license to at least two patents
9 assigned to Display Technologies, U.S. Patent Nos. 8,671,195 and 9,300,723. Valve, however,
10 already has a license to both of those patents under the 2016 Global Settlement and License
11 Agreement.

12 **ANSWER:** Defendants admit that the 2016 Global Settlement and License Agreement
13 grants Valve a license to U.S. Patent No. 8,671,195 and U.S. Patent No. 9,300,723, but
14 otherwise deny the allegations of Paragraph 18.

15
16 19. Shortly after Mr. Falcucci’s string of demand messages, Display Technologies
17 sued Valve in this Court for patent infringement. *See Display Technologies LLC v. Valve*
18 *Corporation*, 2-22-cv-01365 (W.D. Wash. Sept. 27, 2022).

19 **ANSWER:** Defendants admit that Display Technologies filed suit against Valve in the
20 U.S. District Court for the Western District of Washington for patent infringement on or about
21 September 27, 2022, but otherwise deny the allegations of Paragraph 19.

22
23 20. Defendants Samuel Meyler (“Meyler”) and Meyler Legal, PLLC (collectively,
24 “Meyler Defendants”) represented Display Technologies in its 2022 lawsuit against Valve.

25 **ANSWER:** Admitted.

1 21. Display Technologies asserted infringement of U.S. Patent No. 9,300,723, which
2 is a continuation of U.S. Patent No. 8,671,195, the patent originally asserted against Valve that
3 led to the 2016 Global Settlement and License Agreement. Accordingly, U.S. Patent No.
4 9,300,723 is covered under the parties' 2016 Global Settlement and License Agreement. Display
5 Technologies' suit against Valve in 2022 was thus a breach of that agreement.

6 **ANSWER:** Defendants admit that U.S. Patent No. 9,300,723 ("the '723 patent") was
7 asserted by Display Technologies in the case captioned *Display Technologies LLC v. Valve*
8 *Corporation*, 2:22-cv-01365 (W.D. Wash. Sept. 27, 2022), but note that the '723 patent is a
9 continuation-in-part, not a continuation, of U.S. Patent No. 8,671,195 ("the '195 patent"), and
10 that the '195 patent was asserted against Valve in the case captioned *Display Technologies LLC*
11 *v. Valve Corporation*, 2:15-cv-00999 (E.D. Texas June 9, 2015), but otherwise deny the
12 allegation of Paragraph 21.

13
14 22. Valve informed Display Technologies that Valve had a license to U.S. Patent No.
15 9,300,723 under the 2016 Global Settlement and License Agreement. In doing so, Valve sent the
16 2016 Global Settlement and License Agreement to the Meyler Defendants twice, once in
17 October and once in December 2022. In its December letter, Valve explained the history of the
18 2015 litigation between Display Technologies and Valve and informed the Meyler Defendants
19 that "[t]he Global Agreement granted Valve a license to all of Rothschild's patents that could
20 conceivably be construed to cover any portion of Valve's business." Ex. 6 at 1.

21 **ANSWER:** Defendants admit that Christopher Schenk, Legal Counsel at Valve, sent an
22 undated letter via email to Samuel Meyler, with a copy to Jay Johnson of Kizzia Johnson
23 PPLC, in December 2022, that included a copy of the 2016 Global Settlement and License
24 Agreement and that the undated letter included the quoted language, but otherwise deny the
25 allegations of Paragraph 22.

23. Display Technologies voluntarily dismissed its lawsuit on October 13, 2022, but did so without prejudice. See *Display Technologies LLC v. Valve Corporation*, Case No. 2:22-cv-01365, Dkt. 6 (W.D. Wash. Sept. 27, 2022) (Ex. 7).

ANSWER: Defendants admit that Display Technologies dismissed the complaint in *Display Technologies LLC v. Valve Corporation*, Case No. 2:22-cv-01365, (W.D. Wash. Sept. 27, 2022) under Fed. R. Civ. P. 41(a)(1)(A)(i), but otherwise deny the allegations of Paragraph 23.

24. Since dismissing that case without prejudice, Mr. Falcucci has not withdrawn or retracted his demands, made on behalf of Rothschild and PAM, that Valve take a license to patents owned by Display Technologies that are already covered under the 2016 Global Settlement and License Agreement (including U.S. Patent No. 9,300,723).

ANSWER: Denied.

25. Defendants' improper threats to sue Valve for patent infringement on patents Valve already had a license to did not end there.

ANSWER: Denied.

26. On June 21, 2023, the Meyler Defendants sent a letter to Valve on behalf of a *different* Rothschild-controlled entity—RBDS—threatening to file another lawsuit against Valve, this time alleging infringement of the '221 Patent if Valve did not negotiate a resolution of RBDS's claims. Ex. 8 (Meyler letter to Valve).

ANSWER: Defendants admit that Samuel Meyler sent a letter on or about June 21, 2023, to Christopher Schenk, Legal Counsel at Valve, but otherwise deny the allegations of Paragraph 26.

27. For the second time in less than a year, Rothschild and PAM, this time through

1 RBDS, are threatening to sue Valve for infringement of a patent that Valve is already a licensee
2 to under the 2016 Global Settlement and License Agreement.

3 **ANSWER:** Denied.
4

5 28. The '221 Patent is expressly listed as one of the licensed patents in Exhibit C of
6 the 2016 Global Licensing and Settlement Agreement. Ex. 1 at 19. Less than five minutes of due
7 diligence—namely, reviewing the licensing agreement—would have confirmed that Valve is
8 licensed to the '221 Patent.

9 **ANSWER:** Defendants admit that the '221 Patent is listed on Exhibit C of the 2016
10 Global Licensing and Settlement Agreement, but otherwise deny the allegations of Paragraph
11 28.
12

13 29. Because Valve had already sent the agreement to the Meyler Defendants, on
14 information and belief, they were aware of its terms when Mr. Meyler sent the June 21, 2023,
15 letter to Valve.

16 **ANSWER:** Denied.
17

18 30. Prior to filing the 2022 lawsuit alleging infringement of United States Patent No.
19 9,300,723 on behalf of Rothschild-controlled Display Technologies, Meyler was required by
20 Washington Rule of Professional Conduct 3.1 and Federal Rule of Civil Procedure 11 to
21 investigate the basis for Display Technologies' claims.

22 **ANSWER:** Denied. Washington Rule of Professional Conduct 3.1 states:

23 A lawyer shall not bring or defend a proceeding, or assert or controvert an issue
24 therein, unless there is a basis in law and fact for doing so that is not frivolous,
25 which includes a good-faith argument for an extension, modification, or reversal of
existing law.

26 and Federal Rule of Civil Procedure 11(b) states:

1 By presenting to the court a pleading, written motion, or other paper—whether by
 2 signing, filing, submitting, or later advocating it—an attorney or unrepresented
 3 party certifies that to the best of the person's knowledge, information, and belief,
 formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass,
 4 cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by
 5 existing law or by a nonfrivolous argument for extending, modifying, or
 6 reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so
 7 identified, will likely have evidentiary support after a reasonable
 opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if
 8 specifically so identified, are reasonably based on belief or a lack of
 9 information.

10
 11 31. At a minimum, Meyler's investigation should have included a review of the 2016
 12 Global Settlement and License Agreement between Display Technologies and Valve, which
 13 would have informed him of the numerous patents to which Valve was already licensed.

14 **ANSWER:** Denied.

15
 16 32. The most-recent demand letter, combined with the fact that Display Technologies
 17 already sued Valve for infringement of a patent it has a license to, demonstrates that it is highly
 18 likely one or more Defendants will sue Valve for infringement of the '221 Patent.

19 **ANSWER:** Denied. Valve has a valid and enforceable covenant not to sue for the '221
 20 Patent from Defendants.

21
 22 33. In the meantime, the cloud of Defendants' improper infringement allegations
 23 hangs over Valve, its products, and its services. Defendants' actions have created an actual,
 24 justiciable, substantial, and immediate controversy between Valve and Defendants as to whether
 25 the '221 Patent claims are valid, and whether those claims are enforceable against Valve.

26 **ANSWER:** Denied. Valve has a valid and enforceable covenant not to sue for the '221

1 Patent from Defendants.

2
3 34. A judicial declaration is necessary to determine the respective rights of the parties
4 regarding the '221 Patent, and Valve respectfully seeks a judicial declaration that the '221 Patent
5 is invalid and unenforceable against Valve.

6 **ANSWER:** Denied. Valve has a valid and enforceable covenant not to sue for the '221
7 Patent from Defendants.

8
9 35. On information and belief, Rothschild, RBDS, Display Technologies, and PAM
10 are highly assertive entities whose entire business model is to make bad faith assertions of patent
11 infringement in the hopes of obtaining a quick settlement payment. The Meyler Defendants
12 knowingly and willingly assisted in making such claims against Valve and, presumably, other
13 companies as well. The assertions raised against Valve by the collective Defendants are in
14 violation of RCW 19.350 because they are objectively and subjectively baseless allegations that
15 Valve is infringing a patent to which Valve already has a license. Defendants' bad faith
16 assertions of patent infringement resulted in Valve spending unnecessary money on legal fees to
17 defend itself against these baseless claims.

18 **ANSWER:** Denied.

19
20 **II. THE PARTIES**

21 36. Valve Corporation is a software and videogame developer with its primary place
22 of business at 10400 NE 4th St. Fl. 14, Bellevue, WA 98004.

23 **ANSWER:** Defendants lack information sufficient to form a belief as to the truth or
24 falsity of the allegations in Paragraph 36 and therefore deny those allegations.

25
26 37. On information and belief, Leigh Rothschild resides at 1801 NE 123rd St. North,

1 Miami, FL 33181.

2 **ANSWER:** Denied.

3
4 38. RBDS is a corporation organized and existing under the laws of the state of
5 Texas with a registered physical address of 1 East Broward Boulevard, Suite 700, Ft.
6 Lauderdale, FL 33301.

7 **ANSWER:** Admitted.

8
9 39. RBDS owns the rights to the '221 Patent, which it has asserted at least 120 times
10 against companies across a wide range of industries. No party that contested infringement has
11 ever been found by a federal court to infringe the '221 Patent. In each of its cases, RBDS
12 dismissed the lawsuit prior to claim construction.

13 **ANSWER:** Defendants admit that RBDS is the assignee of the '221 Patent, but
14 otherwise deny the allegations of Paragraph 39.

15
16 40. Display Technologies is a corporation organized and existing under the laws of
17 the state of Texas with a registered physical address of 1 East Broward Boulevard, Suite 700, Ft.
18 Lauderdale, FL 33301.

19 **ANSWER:** Admitted.

20
21 41. PAM is a corporation organized and existing under the laws of the state of
22 Florida, with a registered physical address of 1 East Broward Boulevard, Suite 700, Fort
23 Lauderdale, FL, 33301.

24 **ANSWER:** Admitted.

25
26 42. Rothschild is the registered agent of PAM.

1 **ANSWER:** Admitted.

2
3 43. PAM owns 100% of RBDS and Display Technologies. Dkt. 21.

4 **ANSWER:** Admitted.

5
6 44. Upon information and belief, Display Technologies, RBDS, and PAM are
7 controlled by Rothschild and are used by him for the sole purpose of asserting patent
8 infringement claims. PAM owns 100% of each of RBDS and Display Technologies. Dkt. 21.

9 **ANSWER:** Defendants admit that PAM owns 100% of each of RBDS and Display
10 Technologies, but otherwise deny the allegations of Paragraph 44.

11
12 45. Samuel Meyler is an attorney licensed in Washington State. Meyler is the sole
13 practitioner of Meyler Legal, PLLC, having a registered place of business at 1700 Westlake Ave
14 N Ste 200, Seattle, WA 98109-6212.

15 **ANSWER:** Admitted.

16
17 46. Rothschild signed and submitted the patent assignment agreement transferring
18 rights to the '221 Patent from one of his controlled entities, Ariel Inventions, to another of his
19 controlled entities, RBDS. Ex. 9 (Patent Assignment Cover Sheet). Rothschild signed on behalf
20 of both parties to the assignment.

21 **ANSWER:** Defendants admit that Rothschild signed an Assignment of Patent Rights
22 on behalf of Ariel Inventions LLC that assigned all rights in the '221 Patent to RBDS, but
23 otherwise deny the allegations of Paragraph 46.

24
25 47. Despite being personally informed that Valve previously executed the 2016
26 Global Settlement and License Agreement with Rothschild, and being sent a copy of that

1 agreement, Meyler, on his firm's letterhead, authored and sent the June 2023 demand letter to
2 Valve that threatens a lawsuit based on the '221 Patent, a patent explicitly listed in the 2016
3 Global Settlement and License Agreement.

4 **ANSWER:** Denied.

6 **III. JURISDICTION AND VENUE**

7 48. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202,
8 under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.* This action also arises under
9 the Patent Troll Prevention Act enacted by the state of Washington at RCW 19.350 prohibiting
10 bad faith assertion of patent infringement, and RCW 19.86.020, the Washington State Consumer
11 Protection Act.

12 **ANSWER:** Denied.

13
14 49. This Court has subject matter jurisdiction over the claims alleged in this action at
15 least under 28 U.S.C. §§ 1331, 1338, 2201, and 2202, because this Court has exclusive
16 jurisdiction over declaratory judgment claims arising under the Patent Laws pursuant to these
17 statutes.

18 **ANSWER:** Denied. Valve has a valid and enforceable covenant not to sue for the '221
19 Patent from Defendants.

20
21 50. This Court has supplemental jurisdiction over Valve's state claims under 28
22 U.S.C § 1367, as Valve's state law claims arise out of the same case or controversy as its claims
23 for which this Court has original jurisdiction.

24 **ANSWER:** Denied. Valve has a valid and enforceable covenant not to sue for the '221
25 Patent from Defendants.

26 51. This Court has personal jurisdiction over Defendants because they acted in

1 concert to conduct substantial business in this District, including regularly doing or soliciting
2 business, engaging in other persistent courses of conduct, suing other companies in this District
3 on the '221 Patent, and deriving substantial revenue from individuals and entities in Washington.
4 Rothschild-controlled entities routinely avail themselves of the Washington Federal District
5 Courts as a forum for asserting infringement against Washington companies. *See, e.g.,*
6 *Rothschild Broadcast Distrib. Sys., LLC v. CreativeLive Inc.*, No. 2-22-cv-00771 (W.D. Wash.
7 June 2, 2022); *Display Technologies LLC v. Valve Corp.*, No. 2-22-cv-01365 (W.D. Wash. Sept.
8 27, 2022).

9 **ANSWER:** Denied.

10
11 52. The 2022 demand letters from Falcucci were made on behalf of both Rothschild
12 and PAM, requested that Valve take a license to patents assigned to RBDS and Display
13 Technologies, were sent to Valve's headquarters in Washington, and sought additional royalty
14 payments from Valve.

15 **ANSWER:** Denied.

16
17 53. Shortly after Mr. Falcucci sent these demand letters on behalf of Rothschild and
18 PAM, Display Technologies, represented by the Meyler Defendants, filed suit against Valve at
19 Rothschild's directive.

20 **ANSWER:** Denied.

21
22 54. Accordingly, each Defendant purposefully and repeatedly directed its activities at
23 residents of Washington. On information and belief, Rothschild's companies have sent letters to
24 numerous other entities, including numerous other companies based in Washington, asserting
25 infringement of the '221 Patent and demanding payment of money. Thus, Defendants have
26 sufficient minimum contacts with the State of Washington to satisfy the Washington long-arm

1 statute (RCW 4.28.185) and Constitutional due process requirements because Defendants
2 regularly conduct business activities in Washington.

3 **ANSWER:** Denied.

4
5 55. This Court further has personal jurisdiction over the Meyler Defendants because
6 both are domiciled in this jurisdiction.

7 **ANSWER:** Defendants admit that the Meyler Defendants are domiciled in the Western
8 District of Washington, but otherwise deny the allegations of Paragraph 55.

9
10 56. Venue in this District is proper under 28 U.S.C. §§ 1391(b), (c), and (d) with
11 respect to Valve's particular claims against all Defendants.

12 **ANSWER:** Denied. Other than the Meyler Defendants, none of the Defendants resides
13 in the Western District of Washington.

14
15 **IV. THE '221 PATENT**

16 57. The '221 Patent issued on October 7, 2014, to Rothschild and is titled "System
17 and method for storing broadcast content in a cloud-based computing environment." The '221
18 Patent is currently assigned to RBDS.

19 **ANSWER:** Admitted.

20
21 58. The '221 Patent is listed in Exhibit C to the 2016 Global Settlement and License
22 Agreement as one of the Licensed Patents. Ex. 1 at 19 (Patent No. 12).

23 **ANSWER:** Admitted.

1 **V. COUNT I: DECLARATORY JUDGEMENT THAT THE '221 PATENT IS**
2 **INVALID**

3 55. Valve incorporates by reference the preceding paragraphs of this Complaint.

4 **ANSWER:** Defendants incorporate by reference their responses to each of the
5 preceding paragraphs of Plaintiff's Complaint.

6
7 56. In view of the facts and allegations set forth above, there is an actual, justiciable,
8 substantial, and immediate controversy between Valve and RBDS regarding the validity of the
9 '221 Patent. Absent a declaration of invalidity, RBDS will continue to assert the '221 Patent
10 wrongfully, thereby injuring Valve.

11 **ANSWER:** Denied.
12

13 57. As Valve explains throughout this Complaint and in Count III for Breach of
14 Contract, incorporated by reference herein, Defendants behave as if compliance with the 2016
15 Global Settlement and License Agreement was optional. To avoid any doubt the existence of
16 that agreement and its covenant not to sue does not negate the case or controversy between
17 Valve and Defendants because of Defendants' pattern of past and ongoing violations of that
18 agreement. This is that unique case where a covenant not to sue between the parties fails to
19 provide Valve with the protection it paid for because, unfortunately, the assurances given to
20 Valve in that agreement are worthless. Judicial intervention is therefore necessary to give Valve
21 the rights it paid for, but that Defendants have denied it.

22 **ANSWER:** Denied.
23

24 58. The '221 patent is invalid for failure to meet one or more of the conditions of
25 patentability under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, including, but not
26 limited to, 35 U.S.C. §§ 101, 102, 103, and/or 112, and Valve is entitled to a declaration to that

effect. By way of non-limiting example, upon information and belief, the claims of the '221 Patent are invalid as obvious under U.S. Patent Application Publication No. 2008/0155059, titled "Methods and apparatus for supporting content distribution," alone or alternatively in view of U.S. Patent No. 7,684,673 titled "Managing a digital video recorder via a network."

ANSWER: Denied.

VI. COUNT II: DECLARATORY JUDGEMENT THAT THE '221 PATENT IS UNENFORCEABLE AGAINST VALVE

59. Valve incorporates by reference the preceding paragraphs of this Complaint.

ANSWER: Defendants incorporate by reference their responses to each of the preceding paragraphs of Plaintiff's Complaint.

60. Valve received a "perpetual, irrevocable, royalty-free, fully paid-up, worldwide license" to the '221 Patent by signing the 2016 Global Settlement and License Agreement.

ANSWER: Defendants admit that the 2016 Global Settlement and License Agreement included the grant of a perpetual, irrevocable, royalty-free, fully paid-up, worldwide license to the '221 Patent, but otherwise deny the allegations of Paragraph 60.

61. That Agreement applies with equal force to RBDS as it did to Ariel Inventions LLC, the Rothschild-controlled entity that was assigned the '221 Patent when the 2016 Global Settlement and License Agreement was signed. Indeed, Section 7.2 of the agreement states that "Licensor may not assign, or exclusively license, any of the Licensed Patents without such assignee or licensee agreeing to be bound by the obligations of the Licensor hereunder as if it were a party hereto, and any assignment or exclusive license made in violation of this provision shall be void." Ex. 1 at 7.

ANSWER: Defendants admit that the 2016 Global Settlement and License Agreement includes the quoted language, but otherwise deny the allegations of Paragraph 61.

62. As discussed above, because Defendants behave as if compliance with the 2016 Global Settlement and License Agreement is optional, judicial intervention is necessary to give Valve the rights it paid for, but that Defendants have denied it.

ANSWER: Denied.

63. Valve thus is entitled to judgment declaring that the '221 Patent is unenforceable against Valve, and that no party can file suit against it for infringement of the '221 Patent.

ANSWER: Denied.

64. Valve has no adequate remedy at law for its declaratory judgment claims.

ANSWER: Denied.

VII. COUNT III: BREACH OF CONTRACT

65. Valve incorporates by reference the preceding paragraphs of this Complaint.

ANSWER: Defendants incorporate by reference their responses to each of the preceding paragraphs of Plaintiff's Complaint.

66. Section 3.1 of the 2016 Global Settlement and License Agreement is titled "Licensor License to Licensee" and states "No royalties or additional payments of any kind shall be required in order to maintain this Agreement in force." Ex. 1.

ANSWER: Admitted.

67. Section 3.2 of the 2016 Global Settlement and License Agreement is titled "Covenant Not to Sue Licensee" and states "Licensor covenants not to sue Licensee or its Affiliates for actual or alleged infringement of the Licensed Patents." Ex. 1.

1 **ANSWER:** Admitted.

2
3 68. Valve fully performed its obligations under the 2016 Global Settlement and
4 License Agreement.

5 **ANSWER:** Denied.

6
7 69. As a condition of being assigned the '221 Patent, RBDS is bound by the 2016
8 Global Settlement and License Agreement as if it was an original signatory to the agreement.

9 **ANSWER:** Denied.

10
11 70. As the original signatory to the 2016 Global Settlement and License Agreement,
12 Display Technologies is bound by the agreement.

13 **ANSWER:** Admitted

14
15 71. The “potential resolution” and “resolution” discussed in the 2023 demand letter
16 sent by Meyler on behalf of Rothschild and RBDS is a monetary payment for additional rights to
17 patents to which Valve is already licensed, including the '221 Patent.

18 **ANSWER:** Denied.

19
20 72. RBDS breached at least Section 3.1 and anticipatorily breached Section 3.2 (and
21 therefore breached the 2016 Global Settlement and License Agreement) when it asserted the
22 '221 Patent against Valve in its most recent demand letter.

23 **ANSWER:** Denied.

24
25 73. RBDS repudiated its covenant not to sue Valve by expressly threatening to sue
26 Valve if it did not pay additional money to RBDS. Ex. 8 at 1.

1 **ANSWER:** Denied.

2
3 74. In other words, RBDS made a positive statement indicating distinctly and
4 unequivocally that it would not substantially perform its obligations under the covenant not to
5 sue without receiving additional monetary payment that goes beyond Valve's payment
6 obligations under the 2016 Global Settlement and License Agreement.

7 **ANSWER:** Denied.

8
9 75. As noted above, RBDS also breached Section 3.1 of the 2016 Global Settlement
10 and License Agreement by demanding additional payment for rights to patents licensed to Valve
11 in the 2016 Global Settlement and License Agreement.

12 **ANSWER:** Denied.

13
14 76. Further, Display Technologies breached the covenant not to sue when it asserted
15 U.S. Patent No. 9,300,723 in its 2022 lawsuit against Valve and continues to be in breach by
16 failing to withdraw the 2022 demands from Mr. Falcucci.

17 **ANSWER:** Denied.

18
19 77. As explained above, Rothschild owns, controls, and directs the actions of RBDS
20 and Display Technologies. As a signatory to the 2016 Global Settlement and License
21 Agreement, Rothschild is also in breach and/or has anticipatorily breached the 2016 Global
22 Settlement and License Agreement.

23 **ANSWER:** Denied.

VIII. COUNT IV: VIOLATION OF WASHINGTON UNFAIR BUSINESS PRACTICES AND BAD FAITH ASSERTIONS OF PATENT INFRINGEMENT, RCW 19.86 AND 19.350

78. Valve incorporates by reference the preceding paragraphs of this Complaint.

ANSWER: Defendants incorporate by reference their responses to each of the preceding paragraphs of Plaintiff's Complaint.

79. Defendants made a pre-suit assertion of patent infringement by sending the March 2022 demands to Valve, which falsely and misleadingly requested that Valve pay additional fees to obtain a license to U.S. Patents 8,671,195 and 9,300,723, patents owned by Display Technologies to which Valve already had a license.

ANSWER: Denied.

80. Defendants have not withdrawn Mr. Falcucci's demands.

ANSWER: Denied.

81. Defendants made another pre-suit assertion of patent infringement by sending the June 2023 demand letter to Valve, which claimed that Valve has infringed the '221 Patent and encouraged Valve to obtain a license to the '221 Patent to avoid litigation. This threat, like the March 2022 threat, was made outside the context of active litigation between Defendants and Valve.

ANSWER: Denied.

82. Defendants' pre-suit threats to sue Valve for infringing licensed patents are bad faith assertions of patent infringement and in violation of RCW 19.350 (the Patent Troll Prevention Act).

ANSWER: Denied.

1
2 83. Defendants sent the June 2023 demand letter when no judicial proceeding or
3 litigation was pending between Defendants and Valve.

4 **ANSWER:** Denied.
5

6 84. The June 2023 letter was emailed directly to a member of Valve's legal team.

7 **ANSWER:** Denied.
8

9 85. The June 2023 letter did not attach any complaints or other proposed judicial
10 pleadings that Meyler intended to file. Instead, the letter explained that Valve could take a
11 license as a way of avoiding litigation.

12 **ANSWER:** Denied.
13

14 86. To avoid any doubt, this demand letter was a private communication between
15 two private parties outside of the context of any judicial or quasi-judicial proceeding.

16 **ANSWER:** Denied.
17

18 87. Defendants' assertion that Valve infringed licensed patents, such as the '221
19 Patent, was made in bad faith.

20 **ANSWER:** Denied.
21

22 88. Defendants' bad faith assertion of infringement imposed a significant burden on
23 Valve because Valve must now, yet again, expend resources to defend itself against meritless
24 infringement allegations.

25 **ANSWER:** Denied.
26

89. The following non-exclusive factors enumerated under RCW 19.350 weigh in favor of a judicial finding that Defendants' threat of infringement against Valve was made in bad faith:

a. 19.350.020(2)(d): "The person threatens legal action that cannot legally be taken." As explained above, Valve has a worldwide, perpetual license to the '221 Patent. While Defendants have routinely disregarded their legal obligations under the parties' agreement—thus requiring the relief requested through this lawsuit—the fact remains that Defendants legally cannot sue Valve for infringement of the '221 Patent or any other patent covered by the 2016 license, yet have threatened, and even taken, legal action against Valve contrary to the terms of the agreement.

b. 19.350.020(2)(f): "The person, or a subsidiary or an affiliate of the person, has previously filed or threatened to file one or more lawsuits based on the same or substantially equivalent assertion of patent infringement, and a court found the person's assertion to be without merit or found the assertion contains false, misleading, or deceptive information."

i. Upon information and belief, RBDS or another Rothschild- controlled entity has asserted the '221 Patent against at least 127 different companies spanning hundreds of technological fields, industries, services, and products. The only reason that a court has not previously found the assertions of the '221 Patent to be meritless is because these Rothschild-controlled entities exact a quick settlement fee far below the costs to litigate and/or voluntarily dismiss their lawsuits when presented with arguments over the non-infringement and/or invalidity of the asserted patents.

ii. As noted above and expanded upon below, however, courts have found that patent claims made by other Rothschild-controlled entities are without merit.

Indeed, on information and belief, Defendants, or a subsidiary or an affiliate of

one or more Defendants, made substantially equivalent assertions of patent infringement that a court found to be so lacking in merit that it awarded fees to the opposing party.

iii. For example, in the case referenced in attached Ex. 4, *Rothschild Connected Devices Innovations, LLC v. Guardian Prot. Servs., Inc.*, No. 2:15-cv-01431 (E.D. Tex.), the Rothschild plaintiff accused a company of infringing one of the many patents naming Leigh Rothschild as its inventor. Rothschild ultimately voluntarily moved to dismiss the action, which the district court granted while concurrently denying the opposing party's motion for attorney fees. *Rothschild Connected Devices Innovations, LLC v. Guardian Prot. Servs., Inc.*, 858 F.3d 1383, 1386 (Fed. Cir. 2017).

iv. Upon remand from the Federal Circuit, the district court ordered the Rothschild plaintiff to pay "the full amount of fees [the opposing party] seeks." *Rothschild Connected Devices Innovations, LLC v. ADS Sec., L.P.*, No. 2:15-cv-01431, 2017 WL 5178998, at *2 (E.D. Tex. Nov. 8, 2017).

v. In its opinion, the Federal Circuit held (*Rothschild*, 858 F.3d at 1390 (emphasis added)):

[T]he undisputed evidence regarding Rothschild's vexatious litigation warrants an affirmative exceptional case finding here. See Newegg, 793 F.3d at 1350 ("[A] pattern of litigation abuses characterized by the repeated filing of patent infringement actions for the sole purpose of forcing settlements, with no intention of testing the merits of one's claims, is relevant to a district court's exceptional case determination under § 285."); see also Eon-Net, 653 F.3d at 1327 (noting that settlement offers that were "less than ten percent of the cost that [a defendant] expended to defend suit—effectively ensured that [a plaintiff's] baseless infringement allegations remain unexposed").

vi. Such substantially equivalent assertions by another Rothschild entity that led to an attorney fee award—and therefore, on information and belief, a finding

1 that the underlying patent infringement assertion was without merit—are relevant
 2 to whether Defendants acted in bad faith here. Indeed, Defendants engage in
 3 exactly the same type of assertions that the Federal Circuit admonished in the
 4 above-described *Rothschild* decision.

5 c. 19.350.020(2)(g): “Any other factor the court determines to be relevant.” As
 6 explained above, Valve sent a copy of the 2016 Global Settlement and License
 7 Agreement to the Meyler Defendants. Those defendants, a law firm and attorney bound
 8 by the Washington State Rules of Professional Conduct, should have known about the
 9 agreement and its contents based on the bare-minimum due diligence required before
 10 filing suit. The earlier-filed Meyler case, brought on behalf of Display Technologies, was
 11 voluntarily dismissed without prejudice because of that Rothschild-Valve contract. Five
 12 months later, however, Defendants are trying the same tactic again, asserting
 13 infringement of patents Valve has already licensed.

14 **ANSWER:** Defendants admit that RCW 19.350 and the panel’s opinion in *Rothschild*
 15 *Connected Devices Innovations, LLC v. Guardian Prot. Servs., Inc.*, 858 F.3d 1383 (Fed. Cir.
 16 2017) include the quoted language, but otherwise deny the allegations of Paragraph 89.

17
 18 90. Defendants’ violations of RCW 19.350 are an unfair and deceptive business
 19 practice in the conduct of trade or commerce, as declared unlawful and actionable per RCW
 20 19.86.020. *See* RCW 19.86.093; *see also* RCW 19.350.030 (A violation of the Patent Troll
 21 Prevention Act “is an unfair or deceptive act in trade or commerce and an unfair method of
 22 competition for purposes of applying the consumer protection act, chapter 19.86 RCW.”).

23 **ANSWER:** Denied.

24 **IX. PRAYER FOR RELIEF**

25 WHEREFORE, Valve respectfully requests the following relief:
 26

- a. Damages, treble damages, and attorney fees pursuant to RCW 19.86.090;
- b. A declaration that the '221 patent is invalid and unenforceable against Valve;
- c. Preliminary and permanent injunctive relief against Defendants, and ordering Defendants and each of their officers, directors, agents, counsel, servants, employees, and all persons in active concert or participation with them to withdraw their claims and be restrained from alleging, representing, or otherwise stating that any Valve product or service infringes any patent covered by the 2016 Global Settlement and License Agreement, and further enjoining Defendants from instituting any action or proceeding against Valve alleging infringement of any claims of any of the patents covered in the 2016 Global Settlement and License Agreement;
- d. Declaring Valve as the prevailing party and this case as exceptional, and awarding Valve its reasonable attorney fees, pursuant to 35 U.S.C. § 285;
- e. Awarding Valve all damages caused by Defendants' unlawful acts, including punitive damages and pre- and post-judgment interest, as provided by law;
- f. That Defendants be ordered to pay all fees, expenses, and costs associated with this action; and
- g. Awarding such other and further relief as this Court deems just and proper.

ANSWER: Defendants deny that Plaintiff is entitled to any relief in any form.

X. JURY TRIAL REQUEST

Valve, pursuant to the Seventh Amendment of the United States Constitution, requests trial by jury on all issues properly heard by a jury.

ANSWER: Defendants admit that Plaintiff's Second Amended Complaint includes a request by Valve for a jury trial.

GENERAL DENIAL

Each and every allegation in Plaintiff's Second Amended Complaint not specifically admitted herein is denied.

AFFIRMATIVE DEFENSES

91. Subject to the responses above, Defendants assert the following defenses in response to Plaintiff's allegations, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein. All defenses are pled in the alternative and are not admissions of liability or that Plaintiff is entitled to any relief. Defendants' investigation of the facts and their potentially available defenses is continuing, and so Defendants expressly reserve the right to assert additional defenses under, inter alia, Rule 8 of the Federal Rules of Civil Procedure and/or any other defenses, at law in or in equity, that may now exist or in the future become available based upon discovery and further investigation in this case.

**FIRST DEFENSE
(FAILURE TO STATE A CLAIM)**

92. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

**SECOND DEFENSE
(FAILURE TO MITIGATE)**

93. Plaintiff failed to take any steps to prevent or minimize the injuries alleged in Plaintiff's Complaint or to mitigate Plaintiff's alleged damages.

**THIRD DEFENSE
(UNCLEAN HANDS)**

94. Plaintiff's claims for relief are limited or barred, in whole or in part, by the doctrine of unclean hands.

1 **FOURTH DEFENSE**
2 **(EQUITABLE DOCTRINES)**

3 95. Plaintiff's claims for relief are limited or barred, in whole or in part, by one or
4 more of the doctrines of acquiescence, estoppel, waiver, ratification, consent, and/or any other
5 applicable equitable doctrine.

6 **COUNTERCLAIMS**

7 Display Technologies, LLC ("DT") asserts the following counterclaims against Valve
8 Corporation ("Valve"):

9 1. Valve has filed a complaint for declaratory judgment against DT alleging the
10 invalidity and unenforceability of U.S. Patent No. 8,856,221 ("the '221 Patent").

11 **PARTIES**

12 2. DT is a limited liability company organized and existing under the laws of the
13 State of Texas with a place of business at 1 East Broward Boulevard, Suite 700, Ft. Lauderdale,
14 FL 33301.

15 3. On information and belief, Valve is a corporation organized and existing under
16 the laws of the State of Washington with a place of business at 10400 NE 4th St. Fl. 14, Bellevue,
17 WA 98004.

18 **JURISDICTION AND VENUE**

19 4. Valve has filed a complaint against DT seeking, *inter alia*, a declaratory judgment
20 of patent invalidity and unenforceability. As a result of the filing of Valve's complaint, an
21 immediate and justiciable case and controversy exists between DT and Valve. DT's
22 counterclaims relate to Valve's allegations of patent invalidity and unenforceability and arise
23 under the patent laws of the United States, 35 U.S.C. § 1, et seq.

24 5. This Court has subject matter jurisdiction over these counterclaims under 28
25 U.S.C. §§ 1331 and 1338 and the Declaratory Judgment Act.

6. This Court has personal jurisdiction over Valve, and venue is proper, under 28 U.S.C. §§ 1391(a), (b) and (c) because, among other things, Valve resides in this District and has submitted itself to the jurisdiction of this Court in this District by filing its complaint against DT in this District.

BACKGROUND

7. DT is the owner by assignment of U.S. Patent No. 8,671,195 (“the ‘195 Patent”) entitled “DIGITAL MEDIA COMMUNICATION PROTOCOL.” The ‘195 Patent was duly and legally issued on March 11, 2014. A true and correct copy of the ‘195 Patent is attached as Exhibit A.

8. DT is the owner by assignment of U.S. Patent No. 8,856,221 (“the ‘221 Patent”) entitled “SYSTEM AND METHOD FOR STORING BROADCAST CONTENT IN A CLOUD-BASED COMPUTING ENVIRONMENT.” The ‘221 Patent was duly and legally issued on October 7, 2014. A true and correct copy of the ‘221 Patent is attached as Exhibit B.

9. Leigh Rothschild is listed as the sole inventor of the ‘195 Patent and the ‘221 Patent.

10. On June 8, 2015, DT filed suit against Valve for infringement of the ‘195 Patent.

11. On November 14, 2016, DT and Valve entered into a settlement and license agreement (“the GSLA”) to resolve DT’s claims against Valve for infringement of the ‘195 Patent.

12. The GSLA defined “Licensed Patents” to mean, in relevant part, “the patents identified in Exhibit C” to the GLSA. Dkt. 1-1 at 2.

13. The patents identified Exhibit C to the GSLA included the ‘195 Patent and the ‘221 Patent. Dkt. 1-1 at 18, 19.

14. In Section 3.3 of the GSLA, Valve “covenant[ed] not to sue [DT] for any claims with respect to the Licensed Patent.” Dkt. 1-1 at 4. Despite this binding covenant not to sue DT

1 for any claims with respect to the Licensed Patent, Valve nevertheless filed suit against DT in
2 this Court seeking a declaratory judgment that the '221 patent is invalid and unenforceable.

3
4 **COUNTERCLAIM COUNT 1**
5 **(Breach of Contract)**

6 15. DT repeats, re-alleges, and incorporates by reference the averments set forth in
7 the foregoing paragraphs of its Answer and Counterclaims as if fully set forth herein.

8 16. Valve breached at least Section 3.4 of the GSLA when Valve filed suit against
9 DT seeking a declaratory judgment that the '221 patent is invalid and unenforceable.

10 **COUNTERCLAIM COUNT 2**
11 **(Infringement of the '195 patent)**

12 17. DT repeats, re-alleges, and incorporates by reference the averments set forth in
13 the foregoing paragraphs of its Answer and Counterclaims as if fully set forth herein.

14 18. Valve has infringed and continues to infringe the '195 patent under the provisions
15 of 35 U.S.C. § 271(a) by making, using, selling and/or offering for sale in, and/or importing into,
16 the United States, without authorization, a digital media communications protocol for
17 transmitting media files between a media terminal and media node on an interactive network,
18 such as Steam OS.

19 19. Valve has been aware of the '195 Patent and infringement of the claims thereof
20 by Valve's products such as Steam OS since at least June 8, 2015.

21 20. Valve's Steam OS falls within the scope of at least claim 17 of the '195 Patent, as
22 evidenced by Valve's product descriptions. For example, Steam OS provides a digital
23 communication protocol. See <http://store.steampowered.com/streaming/>. Valve's Steam OS
24 includes at least one media terminal and media node, a communications link between them, the
25 communications link being initiated by Stream OS on a, the media node and terminal structured
26 to transmit a digital file over the communications link, and the communications link is structured

1 to bypass at least one media terminal security measure. For example, Steam OS “allows you to
 2 play a game on one computer when the game process is actually running on another computer
 3 elsewhere in your home. Through Stream, game audio and video is captured on the remote
 4 computer and sent to the player’s computer.” *Id.*

5 21. Valve, with knowledge that its products such as Steam OS, or the use thereof,
 6 infringe the ‘195 Patent since at least June 8, 2015, knowingly and intentionally induced, and
 7 continue to knowingly and intentionally induce direct infringement of the ‘195 Patent by
 8 continuing to sell and offer for to sell these products to end-users for use in an infringing manner.

9 22. Valve’s infringement of the ‘195 Patent therefore has been and continues to be
 10 willful.

11 23. DT has suffered damages as a result of Valve’s direct and indirect infringement
 12 of the ‘195 Patent in an amount to be proved at trial.

13 24. DT has suffered, and will continue to suffer, irreparable harm as a result of
 14 Valve’s infringement of the ‘195 Patent, for which there is no adequate remedy at law, unless
 15 Valve’s infringement is enjoined by this Court.

16
 17 **COUNTERCLAIM COUNT 3**
(Infringement of the ‘221 patent)

18 25. DT repeats, re-alleges, and incorporates by reference the averments set forth in
 19 the foregoing paragraphs of its Answer and Counterclaims as if fully set forth herein.

20 26. Valve has infringed and continues to infringe the ‘221 patent under the provisions
 21 of 35 U.S.C. § 271(a) by making, using, selling and/or offering for sale in, and/or importing into,
 22 the United States, without authorization, products which provide a method storing media content
 23 and delivering requested media content to a consumer device, such as Steam Cloud.

24 27. Valve has been aware of the ‘221 Patent and infringement of the claims thereof
 25 by Valve’s products such as Steam Cloud since at least November 14, 2016.

28. Valve's Steam Cloud, and the use thereof, falls within the scope of at least claim 7 of the '221 Patent, as evidenced by Valve's product descriptions. For example, "Steam Cloud allows games and the platform to utilize cloud storage hosted by Steam. Games can utilize Steam Cloud for storage of many different types of data, including game settings, save games, profile stats and other user-specific bits." <https://help.steampowered.com/en/faqs/view/68D2-35AB-09A9-7678>. The Steam Cloud provides an easy and transparent remote file storage system for your game. Files specified in the Auto-Cloud configuration or written to disk (created, modified, deleted, etc.) using the Cloud API will automatically be replicated to the Steam servers after the game exits. See <https://partner.steamgames.com/doc/features/cloud#initial-setup>.

29. Valve, with knowledge that its products such as Steam Cloud, or the use thereof, infringe the '221 Patent since at least November 14, 2016, knowingly and intentionally induced, and continue to knowingly and intentionally induce direct infringement of the '221 Patent by continuing to sell and offer for to sell these products to end-users for use in an infringing manner.

30. Valve's infringement of the '221 Patent therefore has been and continues to be willful.

31. DT has suffered damages as a result of Valve's direct and indirect infringement of the '221 Patent in an amount to be proved at trial.

32. DT has suffered, and will continue to suffer, irreparable harm as a result of Valve's infringement of the '221 Patent, for which there is no adequate remedy at law, unless Valve's infringement is enjoined by this Court.

COUNTERCLAIM COUNT 4 **(Business Defamation)**

33. DT repeats, re-alleges, and incorporates by reference the averments set forth in the foregoing paragraphs of its Answer and Counterclaims as if fully set forth herein.

34. Valve has wrongfully accused DT of being a "patent troll" and having "engaged in a pattern of unseemly litigation tactics, often based on objectively baseless allegations" and

1 “unfair business practices” in public filings that Valve has made in this Court. Dkt. 38; *see also*
2 Dkt. 1, 23.

3 35. Valve knew, or should have known, that its accusations against DT were false.

4 36. DT has suffered damages as a result of Valve’s defamation in an amount to be
5 proved at trial.

6 **DT’S DEMAND FOR A JURY TRIAL**

7 DT demands a trial by jury on all matters and issues triable by jury.

8 **PRAYER FOR RELIEF**

9 Best Buy requests that judgment be entered as follows:
10

11 A. finding, declaring, and adjudging that DigiMedia is not entitled to any remedy or
12 relief, and, therefore, shall take nothing from Best Buy;

13 B. finding, declaring, and adjudging in favor of Best Buy against DigiMedia, and
14 dismissing with prejudice all claims of DigiMedia against Best Buy;

15 C. finding, declaring, and adjudging that Best Buy has not infringed and is not
16 infringing any claim of the patents-in-suit, either directly, indirectly, literally, and under the
17 doctrine of equivalents;

18 D. finding, declaring, and adjudging that the claims of the patents-in-suit are
19 invalid or patent ineligible;

20 E. finding, declaring, and adjudging that this is an exceptional case pursuant to 35
21 U.S.C. § 285;

22 F. awarding Best Buy its costs (including expert witness fees), expenses, and
23 reasonable attorney fees, and such other relief as may be appropriate; and
24

25 G. awarding such other and further relief as the Court deems proper and just,
26

1 Dated: October 17, 2024

Respectfully submitted,

2 By: /s/ Donald R. McPhail

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